

BRYAN DENNISON D. GO, PETITIONER, VS. HONORABLE HENRY B. DAMASING, PRESIDING JUDGE OF BRANCH 24, REGIONAL TRIAL COURT, CAGAYAN DE ORO CITY AND WILLIAM CUA, RESPONDENTS.

Ponente: PEREZ, J.

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PEREZ, J.:

This treats of the Petition for Certiorari[1] under Rule 65 of the Rules of Court filed on 7 November 2014 relative to the Orders dated 22 March 2014[2] and 11 August 2014[3] of the Regional Trial Court, Branch 24, 10th Judicial Region, Cagayan de Oro City in Criminal Case No. 2012-126 which found no probable cause for estafa against private respondent William Cua and approved the Prosecutor's Motion to Withdraw Information.

Our examination of the instant petition discloses that petitioner failed to implead the State – People of the Philippines – and furnish its authorized representative, the Solicitor General, a copy of the petition. What is more, the petition was filed by counsel of petitioner, the private complainant in the criminal cases before the RTC. On these grounds, the petition is dismissible.

Firstly, We emphasize that in a criminal action, the parties are the People of the Philippines and the accused, and the offended party is regarded merely as a witness for the State.[4] This is so because a criminal action is one by which the State prosecutes a person for an act or omission punishable by law.[5]

And secondly, the mandate or authority to appear for the State in appeals of criminal cases before Us is solely vested in the Office of the Solicitor General[6] pursuant to Section 35(1), Chapter 12, Title III of Book IV of the 1987 Administrative Code, viz –

Powers and Functions. – The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. x x x It shall have the following specific powers and functions:

(1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court and Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.

In fact, the Supreme Court has been consistent in its rulings with regard this issue. In *Cariño v. de Castro*,[7] the Supreme Court said that –

In criminal proceedings on appeal in the Court of Appeals or in the Supreme Court, the authority to represent the People is vested solely in the Solicitor General. Under Presidential Decree No. 478, among the specific powers and functions of the OSG was to “represent the government in the Supreme Court and the Court of Appeals in all criminal proceedings.” This provision has been carried over to the Revised Administrative Code particularly in Book IV, Title III, Chapter 12 thereof. Without doubt, the OSG is the appellate counsel of the People of the Philippines in all criminal cases.

And in *Heirs of Sarah Palma Burgos v. Court of Appeals*,[8] the Supreme Court stated that –

x x x only the state, through its appellate counsel, the OSG, has the sole right and authority to institute proceedings before the CA or the Supreme Court.

As a general rule, the mandate or authority to represent the state lies only in the OSG. Thus—
It is patent that the intent of the lawmaker was to give the designated official, the Solicitor General, in this case, the unequivocal mandate to appear for the government in legal proceedings. Spread out in the laws creating the office is the discernible intent which may be gathered from the term “shall” x x x.

x x x x

The Court is firmly convinced that considering the spirit and the letter of the law, there can be no other logical interpretation of Sec. 35 of the Administrative Code than that it is, indeed, mandatory upon the OSG to “represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. [Emphases Omitted]

WHEREFORE, the instant Petition is hereby DISMISSED.

SO ORDERED.

Camello, J., Ch., and Inting, JJ., concur.

[1] Rollo, pp. 5-22.

[2] Annex “A”, Rollo, pp. 23-26.

[3] Annex “B”, Rollo, pp. 27-28.

[4] Infra note 8.

[5] Section 3. Cases governed. — These Rules shall govern the procedure to be observed in actions, civil or criminal and special proceedings.

x x x.

(b) A criminal action is one by which the State prosecutes a person for an act or omission punishable by law. (n)

x x x.

[6] People of the Philippines v. Duca, GR No. 171175, 30 October 2009.

[7] GR No. 176084, 30 April 2008.

[8] Heirs of Sarah Burgos v. Court of Appeals, GR No. 169711, 8 February 2010

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